



Federal Communications Commission
Washington, D.C. 20554

August 26, 2009

DA 09-1883

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1200 New Hampshire Ave., NW, Suite 800
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In re: Georgia Television Company
TV Pickup License KR9903
File No. 0002764987

Dear Mr. Patrick:

On June 23, 2008, we received your petition for reconsideration on behalf of Georgia Television Company (Georgia Television) regarding the placement of the license for TV Pickup Station KR9903 and its associated paths (the Station) in termination pending status.¹ For the reasons stated below, we grant Georgia Television's Petition, reinstate the modified license for Station KR9903 to active status, and grant Georgia Television a six-month extension of time to complete construction of that path.

The Commission granted Georgia Television's application to modify the license for Station KR9903 on November 13, 2006, with a construction deadline of May 13, 2008.² The application was filed as part of the process to relocate BAS incumbents from the 1990-2025 MHz band.³ On February 12, 2008, the Commission sent a construction reminder to Georgia Television.⁴ On June 18, 2008, the modified license for Station KR9903 entered termination pending status.⁵ In response, on June 23, 2008, Georgia Television filed the Petition.⁶

Section 1.946(c) of the Commission's Rules states:

If a licensee fails to commence service or operations by the expiration of its construction permit or to meet its coverage or substantial service obligations by the expiration of its coverage period, its authorization terminates automatically, without specific Commission action, on the date the construction or coverage period expires.⁷

¹ See Petition for Reconsideration, Georgia Television Company (filed Jun. 23, 2008) (Petition).

² See File No. 0002769487; Wireless Telecommunications Bureau Site-By-Site Action, *Public Notice*, Report No. 2727 (rel. Nov. 22, 2006) at 10. See also 47 CFR § 101.63(a) ("Each Station ... authorized under this part must be in operation within 18 months from the initial date of grant.")

³ See Improving Public Safety Communications in the 800 MHz Band, WT Docket No. 02-55, ET Docket No. 00-258, *Report and Order, Fifth Report and Order, Fourth Memorandum Opinion and Order, and Order*, 19 FCC Rcd 14969 (2004) (*800 MHz Order*).

⁴ Construct/Coverage Reminder, Reference No. 4709289 (Feb. 12, 2008).

⁵ Auto Termination letter, Reference No. 4756743 (Jun. 18, 2008).

⁶ Petition.

⁷ 47 C.F.R. § 1.946(c).

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The Commission's Rules state that waivers may be granted if it is shown that: (i) the underlying purpose of the rules(s) would not be served or would be frustrated by application to the instant case, and that a grant of the requested waiver would be in the public interest; or (ii) in view of the unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable alternative.⁸

While we do not condone Georgia Television's failure to seek an extension of time in advance of the expiration of Georgia Television's construction/coverage deadline, we believe that, based on the totality of the circumstances involved in this case, the public interest would be served by extending the construction deadline for TV Pickup Station KR9903 for six months from the date of this letter.⁹ Georgia Television has shown that it has been diligent in constructing its system.¹⁰ It has provided the proper paperwork to Sprint Nextel Corporation (Sprint Nextel) and hired a system integrator to install the new radios at all of their locations.¹¹ Georgia Television has been informed by Sprint Nextel has indicated that the BAS relocation for the Atlanta, GA market had been delayed beyond the expiration date of the modification.¹² The obstacle Georgia Television faces to timely completion of construction is primarily due to the need of numerous parties within Georgia Television's market to coordinate among themselves, a matter of timing which is beyond Georgia Television's control.¹³ Section 1.946(e)(1) of the Commission's Rules permits grants of extension of time for causes beyond the control of a licensee.¹⁴ Waiving Section 1.946(c) of the Commission's Rules and reinstating Georgia Television's authorization to active status will further the Commission's goal of abating unacceptable interference to 800 MHz public safety systems in a way that imposes minimal disruption on licensees.¹⁵

Accordingly, IT IS ORDERED, pursuant to Sections 4(i) and 405 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 405, and Sections 1.106 and 1.925 of the Commission's Rules, 47 C.F.R. §§ 1.106, 1.925, that the waiver request and the petition for reconsideration filed June 23, 2008 by Georgia Television Company IS GRANTED, and the license for Station KR9903, Paths 1 and 2, as modified by File No. 0002764987, IS RETURNED to active status.

⁸ 47 C.F.R. § 1.925(b)(3).

⁹ Normally, a request for extension of time to complete construction must be filed electronically using Form 601 and the Universal Licensing System (ULS). See 47 C.F.R § 1.913(a)(1). In this case, however, Georgia Television cannot file an extension request electronically because the path in question is in termination pending status. We therefore grant Georgia Television such waivers as may be necessary to allow consideration of Georgia Television's request to extend the construction deadline that is contained in its Petition.

¹⁰ See, e.g., Regional Transit Service, Inc., *Letter Granting Extension of Time*, 23 FCC Rcd 5210, 5211 (WTB MD 2008).

¹¹ Petition.

¹² *Id.*

¹³ See, e.g., Colby M. May, Esq., P.C., *Letter*, 24 FCC Rcd 3860 (WTB BD 2009) (extension granted to facilitate BAS transition in market even though applicant failed to timely request extension); Robert Lewis Thompson, Esq., *Letter*, 24 FCC Rcd 3863 (WTB BD 2009) (same).

¹⁴ 47 C.F.R. § 1.946(e)(1). See, e.g., Requests of Progeny LMS, LLC and PCS Partners, L.P. for Waiver of Multilateration Location and Monitoring Service Construction Rules, WT Docket No. 08-60, *Order*, DA 08-2614 (WTB Nov. 26, 2008) at n.13.

¹⁵ *800 MHz Order*, 19 FCC Rcd at 14972-73 ¶ 2.

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IT IS FURTHER ORDERED, pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and Section 1.946 of the Commission's Rules, 47 C.F.R. § 1.946, that the time for Georgia Television Company to construct the modification of facilities to Station KR9903 authorized under File No. 0002764987 IS EXTENDED TO February 26, 2010.

These actions are taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131, 0.331.

Sincerely,

John J. Schauble
Deputy Chief, Broadband Division
Wireless Telecommunications Bureau

cc: Georgia Television Company
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